

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	CASE NO.
CHINA TOWN CENTER, INC.	§	03-42234-H3-7
	§	(Chapter 7)
Debtor	§	

**MOTION OF UNITED STATES TRUSTEE TO
WITHDRAW FUNDS FROM REGISTRY OF COURT
AND TO CLOSE CASE**

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file the response with the United States Bankruptcy Court, 515 Rusk, Houston, TX 77002 and serve your response within 20 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

Represented parties should act through their attorney.

COMES NOW, THE UNITED STATES TRUSTEE ("UST"), through the undersigned attorney, and files this Motion to Withdraw Funds from Registry of Court. In support of the Motion, the UST represents the following:

1. An order reopening this case was entered April 9, 2009 (Dkt.#232).
2. During the chapter 11 case, quarterly fees in the amount of \$5,000.00 were incurred by the debtor pursuant to 28 U.S.C. §1930(a)(6) and remained unpaid at the time of conversion to chapter 7. The UST filed an administrative claim on November 2, 2007. *See Exhibit "A"* attached hereto.

3. In the trustee's Final Report Before Distribution ("TFR") (Dkt.#212), the trustee proposed to pay all listed creditors in full plus interest and to return the surplus to the debtor. Projected disbursements included, *inter alia.*, payment to Reliant Energy in the amount of \$2344.59. *See* "Exhibit B - Attachment to Form 2 Projected Disbursement" attached hereto. On November 17, 2008, the trustee filed a Report of Distribution ("TDR") (Dkt.#222).

4. Neither the TFR nor TDR provided for the payment of UST quarterly fees, and those fees remain unpaid.

5. On May 5, 2008, the trustee filed a "Motion to Pay Funds into the Registry under 11 U.S.C. §347(a)" (Dkt.#218) for unclaimed dividends to Reliant Energy on Claim No. 8 in the amount of \$2,344.59, and an order was entered on May 8, 2008 (Dkt.#219). *See* Exhibit "C - Order for Deposit of Funds" attached hereto.

6. Reliant Energy filed two proofs of claims. Claim No. 2 filed November 13, 2003, was for an unsecured claim in the amount of \$2,200.92. *See* Exhibit "D" attached hereto. On May 3, 2004, Reliant filed a second proof of claim identified on the claims register as Claim No. 8. This claim shows the total amount of the claim as zero with a letter attached indicating that Reliant wished to withdraw its previously filed Proof of Claim dated November 7, 2003 in the amount of \$2200.92 because the customer had submitted payment for the pre-petition debt in full. *See* Exhibit "E" attached hereto.

7. Since Reliant Energy withdrew its claim, the funds placed in the registry in the name of Reliant Energy should not be distributed to Reliant Energy. Additionally, since all creditors were paid in full with interest, the other creditors are not entitled to receive any additional distribution. If these funds are paid to the UST in partial payment of the quarterly fees incurred during the chapter 11 proceeding, the payment will benefit the debtor by reducing the amount of the quarterly fee obligation.

8. Therefore, the UST requests all funds placed in the registry of the Court pursuant to Order #219 in the name of Reliant Energy be paid to the United States Trustee in partial satisfaction of the quarterly fees incurred while the case was pending in chapter 11. The case should then be closed, without any need for administration by a chapter 7 trustee.

WHEREFORE, the UST prays for entry of an order directing the Clerk to pay all funds placed in the registry of the Court pursuant to Order #219 in the name of Reliant Energy to the United States Trustee and then closing the case, and for any and all further relief as may be equitable and just.

Dated: April 9, 2009

Respectfully submitted,

CHARLES F. McVAY
UNITED STATES TRUSTEE

By: /s/ Ellen M. Hickman
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served upon the following parties by United States mail, first class, postage prepaid, on the 9th day of April, 2009.

/s/ Ellen M. Hickman
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Chapter 7 Trustee

Ben B. Floyd
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Houston, TX 77002-2732

Creditor

Reliant Energy
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Houston, TX 77251-1046

Debtor

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Notice Required by 28 U.S.C. § 2042
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